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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,870	10/17/2003	David Edward Gindelberger	2000U004D1.US	2254

7590 03/31/2005
Univation Technologies, LLC
Suite 1950
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EXAMINER	
PASTERCZYK, JAMES W	
ART UNIT	PAPER NUMBER
1755	

DATE MAILED: 03/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action SummaryApplication No. ^{P2}

10/688,870

Applicant(s)

GINDELBERGER ET AL.

Examiner

J. Pasterczyk

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/14/03</u> | 6) <input type="checkbox"/> Other: _____ |

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1. This Office action is in response to the IDS document filed 10/17/03.
2. The specification is objected to because the status of the ancestor case needs to be updated. In addition, the abstract is drawn to inventions not claimed herein and is rather sparse in its description of the transition metal compound of the catalyst used in the present process.
3. Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, there does not appear to be a step of contacting a catalyst with an olefin monomer to make the polymer. In l. 4 it is not clear where the heteroatom is substituted on the phenoxide ligand; is the oxygen substituted with e.g. a sulfur atom? Is one of the carbon atoms of the ring substituted with a nitrogen atom? Or is some other substitution contemplated?

In claim 2, the value of n can only be 3 for aluminum in a conventional oxidation state.

In claim 5, the formula recited appears to require some kind of formal charge since the maximum number of ligands on the aluminum is four. However, if the moiety is bonded to the support (Sup, apparently), then n must be at least 1.

In claim 6, first two lines, the process further comprising another activator is a non sequitur since steps cannot comprise tangible objects. Further in l. 2 add indefinite articles before the proper nouns as required.

In claim 8, l. 2, change "may be" to --are-- for definiteness. The first line after the formulas should be likewise amended, and in the third line after the structures delete "or may not" as inherently redundant. Change "may be" to --is-- in the penultimate line.

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4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2 and 7-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Whiteker et al., USP 6,333,389 (hereafter referred to as Whiteker).

Whiteker discloses the invention as claimed (abstract; col. 1, l. 65 to col. 6, l. 10; col. 6, l. 59 to col. 7, l. 11; col. 7, l. 34-36, l. 44-51; col. 8, l. 10-16; col. 9, l. 11-21; col. 10, l. 42-55).

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Whiteker as cited above in view of WO 00/04058 (hereafter referred to as Holtcamp).

The disclosure of Whiteker has been discussed above.

Whiteker lacks specific disclosure of the cocatalyst being bonded to the support.

However, Holtcamp teaches that in supported olefin polymerization catalysts and their use it is conventional to use a cocatalyst bonded to the support (p. 3, l. 23 to p. 4, l. 27; example 5).

It would have been obvious to one of ordinary skill in the art to apply the teaching of Holtcamp to the disclosure of Whiteker with a reasonable expectation of obtaining a highly-


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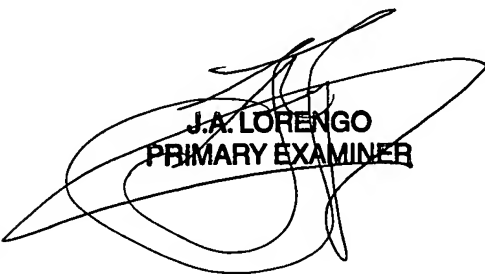
useful method of polymerizing olefins with the expected benefit of the process being useable in gas or slurry phase polymerization reactors.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Pasterczyk whose telephone number is 571-272-1375. The examiner can normally be reached on M-F from 9 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jerry Lorengo, can be reached at 571-272-1233. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


J. Pasterczyk


J.A. LORENZO
PRIMARY EXAMINER

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3/29/05